

**ASSEMBLY BILL**

**No. 2047**

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**Introduced by Assembly Member Beall**  
(Principal coauthor: Senator Alquist)

February 23, 2012

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An act to amend Section 25503.6 of the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

AB 2047, as introduced, Beall. Alcoholic beverages: tied-house restrictions: advertising.

Existing law generally prohibits a manufacturer of alcoholic beverages and a winegrower from paying, crediting, or compensating a retailer for advertising or paying or giving anything of value for the privilege of placing a sign or advertisement with a retail licensee. It authorizes, as an exception, the holder of a winegrower's license, a beer manufacturer, a distilled spirits manufacturer, or a distilled spirits manufacturer's agent, to purchase advertising space and time from, or on behalf of, an on-sale retail licensee, under certain conditions, if the on-sale retail licensee is the owner, manager, agent of the owner, assignee of the owner's advertising rights, or major tenant of specified facilities.

This bill would expand the exceptions to existing law to allow beer manufacturers, winegrowers, distilled spirits rectifiers, distilled spirits manufacturers, or distilled spirits manufacturer's agents to purchase advertising space and time from, or on behalf of, on-sale retail licensees at specified facilities located in the City of San Jose, subject to additional requirements, as provided.

The Alcoholic Beverage Control Act provides that a violation of any of its provisions for which another penalty or punishment is not specifically provided is a misdemeanor. This bill would expand existing crimes by imposing additional requirements on a licensee under the act, thus, the bill would impose a state-mandated local program.

This bill would make legislative findings and declarations as to the necessity of a special statute for the City of San Jose.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 25503.6 of the Business and Professions
- 2 Code is amended to read:
- 3 25503.6. (a) Notwithstanding any other provision of this
- 4 chapter, a beer manufacturer, the holder of a winegrower's license,
- 5 a distilled spirits rectifier, a distilled spirits manufacturer, or
- 6 distilled spirits manufacturer's agent may purchase advertising
- 7 space and time from, or on behalf of, an on-sale retail licensee
- 8 subject to all of the following conditions:
- 9 (1) The on-sale licensee is the owner, manager, agent of the
- 10 owner, assignee of the owner's advertising rights, or the major
- 11 tenant of the owner of any of the following:
- 12 (A) An outdoor stadium or a fully enclosed arena with a fixed
- 13 seating capacity in excess of 10,000 seats located in Sacramento
- 14 County or Alameda County.
- 15 (B) A fully enclosed arena with a fixed seating capacity in
- 16 excess of 18,000 seats located in Orange County or Los Angeles
- 17 County.
- 18 (C) An outdoor stadium or fully enclosed arena with a fixed
- 19 seating capacity in excess of 8,500 seats located in Kern County.
- 20 (D) An exposition park of not less than 50 acres that includes
- 21 an outdoor stadium with a fixed seating capacity in excess of 8,000
- 22 seats and a fully enclosed arena with an attendance capacity in
- 23 excess of 4,500 people, located in San Bernardino County.

1 (E) An outdoor stadium with a fixed seating capacity in excess  
2 of 10,000 seats located in Yolo County.

3 (F) An outdoor stadium and a fully enclosed arena with fixed  
4 seating capacities in excess of 10,000 seats located in Fresno  
5 County.

6 (G) An athletic and entertainment complex of not less than 50  
7 acres that includes within its boundaries an outdoor stadium with  
8 a fixed seating capacity of at least 8,000 seats and a second outdoor  
9 stadium with a fixed seating capacity of at least 3,500 seats located  
10 within Riverside County.

11 (H) An outdoor stadium with a fixed seating capacity in excess  
12 of 1,500 seats located in Tulare County.

13 (I) A motorsports entertainment complex of not less than 50  
14 acres that includes within its boundaries an outdoor speedway with  
15 a fixed seating capacity of at least 50,000 seats, located within San  
16 Bernardino County.

17 (J) An exposition park, owned or operated by a bona fide  
18 nonprofit organization, of not less than 400 acres with facilities  
19 including a grandstand with a seating capacity of at least 8,000  
20 people, at least one exhibition hall greater than 100,000 square  
21 feet, and at least four exhibition halls, each greater than 30,000  
22 square feet, located in the City of Pomona or the City of La Verne  
23 in Los Angeles County.

24 (K) An outdoor soccer stadium with a fixed seating capacity of  
25 at least 25,000 seats, an outdoor tennis stadium with a fixed  
26 capacity of at least 7,000 seats, an outdoor track and field facility  
27 with a fixed seating capacity of at least 7,000 seats, and an indoor  
28 velodrome with a fixed seating capacity of at least 2,000 seats, all  
29 located within a sports and athletic complex built before January  
30 1, 2005, within the City of Carson in Los Angeles County.

31 (L) An outdoor professional sports facility with a fixed seating  
32 capacity of at least 4,200 seats located within San Joaquin County.

33 *(M) A convention center with more than 130,000 square feet of*  
34 *exhibit space located in, and owned by, the City of San Jose.*

35 *(N) An auditorium with a fixed seating capacity in excess of*  
36 *2,500 seats located in, and owned by, the City of San Jose.*

37 (2) The outdoor stadium or fully enclosed arena described in  
38 paragraph (1) is not owned by a community college district.

39 (3) The advertising space or time is purchased only in connection  
40 with the events to be held on the premises of the exposition park,

1 stadium, or arena owned by the on-sale licensee. With respect to  
2 an exposition park as described in subparagraph (J) of paragraph  
3 (1) that includes at least one hotel, the advertising space or time  
4 shall not be displayed on or in any hotel located in the exposition  
5 park, or purchased in connection with the operation of any hotel  
6 located in the exposition park.

7 *(4) In the case of a convention center described in subparagraph*  
8 *(N) and an auditorium described in subparagraph (M) of*  
9 *paragraph (1), the advertising space or time purchased is limited*  
10 *to interior advertising in connection with events conducted within*  
11 *that facility.*

12 ~~(4)~~  
13 (5) The on-sale licensee serves other brands of beer distributed  
14 by a competing beer wholesaler in addition to the brand  
15 manufactured or marketed by the beer manufacturer, other brands  
16 of wine distributed by a competing wine wholesaler in addition to  
17 the brand produced by the winegrower, and other brands of distilled  
18 spirits distributed by a competing distilled spirits wholesaler in  
19 addition to the brand manufactured or marketed by the distilled  
20 spirits rectifier, the distilled spirits manufacturer or the distilled  
21 spirits manufacturer's agent that purchased the advertising space  
22 or time.

23 (b) (1) Any purchase of advertising space or time pursuant to  
24 subdivision (a) shall be conducted pursuant to a written contract  
25 entered into by the beer manufacturer, the holder of the  
26 winegrower's license, the distilled spirits rectifier, the distilled  
27 spirits manufacturer, or the distilled spirits manufacturer's agent  
28 and the on-sale licensee.

29 *(2) In the case of a convention center described in subparagraph*  
30 *(M) of paragraph (1) of subdivision (a) and an auditorium*  
31 *described in subparagraph (N) of paragraph (1) of subdivision*  
32 *(a), if the on-sale licensee is not the owner of that facility, then the*  
33 *on-sale licensee shall also enter into a written contract with the*  
34 *owner regarding the purchase of advertising space or time*  
35 *pursuant to this section.*

36 (c) Any beer manufacturer or holder of a winegrower's license,  
37 any distilled spirits rectifier, any distilled spirits manufacturer, or  
38 any distilled spirits manufacturer's agent who, through coercion  
39 or other illegal means, induces, directly or indirectly, a holder of  
40 a wholesaler's license to fulfill all or part of those contractual

1 obligations entered into pursuant to subdivision (a) or (b) shall be  
2 guilty of a misdemeanor and shall be punished by imprisonment  
3 in the county jail not exceeding six months, or by a fine in an  
4 amount equal to the entire value of the advertising space, time, or  
5 costs involved in the contract, whichever is greater, plus ten  
6 thousand dollars (\$10,000), or by both imprisonment and fine. The  
7 person shall also be subject to license revocation pursuant to  
8 Section 24200.

9 (d) Any on-sale retail licensee, as described in subdivision (a),  
10 who, directly or indirectly, solicits or coerces a holder of a  
11 wholesaler's license to solicit a beer manufacturer, a holder of a  
12 winegrower's license, a distilled spirits rectifier, a distilled spirits  
13 manufacturer, or a distilled spirits manufacturer's agent to purchase  
14 advertising space or time pursuant to subdivision (a) or (b) shall  
15 be guilty of a misdemeanor and shall be punished by imprisonment  
16 in the county jail not exceeding six months, or by a fine in an  
17 amount equal to the entire value of the advertising space or time  
18 involved in the contract, whichever is greater, plus ten thousand  
19 dollars (\$10,000), or by both imprisonment and fine. The person  
20 shall also be subject to license revocation pursuant to Section  
21 24200.

22 (e) For the purposes of this section, "beer manufacturer" includes  
23 any holder of a beer manufacturer's license, any holder of an  
24 out-of-state beer manufacturer's certificate, or any holder of a beer  
25 and wine importer's general license.

26 (f) *The Legislature finds that it is necessary and proper to*  
27 *require a separation among manufacturing interests, wholesale*  
28 *interests, and retail interests in the production and distribution of*  
29 *alcoholic beverages in order to prevent suppliers from dominating*  
30 *local markets through vertical integration and to prevent excessive*  
31 *sales of alcoholic beverages produced by overly aggressive*  
32 *marketing techniques. The Legislature further finds that the*  
33 *exception established by this section to the general prohibition*  
34 *against tied interests shall be limited to its express terms so as not*  
35 *to undermine the general prohibition, and intends that this section*  
36 *be construed accordingly.*

37 SEC. 2. The Legislature finds and declares that a special law  
38 is necessary and that a general law cannot be made applicable  
39 within the meaning of Section 16 of Article IV of the California

1 Constitution because of the unique circumstances and concerns  
2 applicable to certain facilities in the City of San Jose.  
3 SEC. 3. No reimbursement is required by this act pursuant to  
4 Section 6 of Article XIII B of the California Constitution because  
5 the only costs that may be incurred by a local agency or school  
6 district will be incurred because this act creates a new crime or  
7 infraction, eliminates a crime or infraction, or changes the penalty  
8 for a crime or infraction, within the meaning of Section 17556 of  
9 the Government Code, or changes the definition of a crime within  
10 the meaning of Section 6 of Article XIII B of the California  
11 Constitution.